IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.86 OF 2002

M/s.Anrex Construction
And Others .. Petitioners.

Versus

Mr.Prasad Dattatraya
Kulkarni & Ors. .. Respondents.

Mr.M.V.Limaye & Mr.S.M.Kelkar for petitioners.
Mr.Dilip Bodake for respondent No.1.
Mr.P.S.Hingorani, A.P.P. for respondent No.2.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 29th June, 2007.

P.C.

1. This writ petition is at the instance of the original accused praying that an order dated 8th October, 2001 passed by the 7th Additional District Judge, Pune in Criminal Revision Application Nos.246/2000, 247/2000, 248/2000 and 249/2000 be quashed and set aside.

2. It is not disputed before me that the order under challenge is confirming that of the

Judicial Magistrate First Class issuing process in Regular Criminal Case No.235 of 1993 and refusing to recall the said order thereafter.

3. This matter was admitted by this Court and in the meanwhile, interim relief in terms of prayer clause (b) was granted. As a result of the same, further proceedings in Regular Criminal Case No.235 of 1993 are stayed.

4. This matter was heard by me for sometime and noticing that the dispute is between the builders / developers of the immovable property and the apartment / flat purchasers with regard to obligations under the Maharashtra Ownership Flats Act, 1963, on 20th April, 2007, I had recorded the submissions of both sides so also the statement made by the petitioners' Advocate that the petitioners are willing to discharge all obligations as promoters, if not already discharged, including payment of taxes to the

local authority till the date the possession of the apartments / flats was handed over.

5. In pursuance of the statement made before me, an affidavit has been filed by the petitioners so also by the first respondent-original complainant. In the affidavit filed by the petitioners, it has been stated that if all civil and criminal litigations are withdrawn unconditionally, then the petitioners would execute such documents as are remaining to be executed and convey all right, title and interest in the subject immovable property to the association / condominium of apartment/flat owners.

6. The matter was placed before me for further arguments. During the course of arguments, it was suggested to the counsel appearing for both sides to explore the possibility of putting an end to the matter.

7. Accordingly, after taking instructions from their respective clients both counsel have sat together. The petitioners' counsel has pointed out due compliance with the statutory requirements and obligations whereas the original complainant having inspected the relevant documents made certain suggestions, which have been also accepted by the petitioners and their advocates.

8. Accordingly, both sides agree that the present petition so also the regular criminal case and all proceedings pending between the petitioners and the first respondent in any Court shall stand disposed of in view of the undertaking of the petitioners' that they would execute a conveyance deed within a period of three months from today conveying the right, title and interest in the property in favour of the Association/Condominium of apartment owners.

9. The learned counsel appearing for the petitioners makes a further statement that a conveyance would be executed and the property duly conveyed alongwith the construction and specifications in terms of the plans which have been sanctioned by the Pune Municipal Corporation and thus, all areas, open spaces, passages, easementary benefits and rights so also obligations pertaining to the said property would stand duly conveyed. A comprehensive document in that behalf would be entered into and the necessary legal and procedural formalities would be duly completed within the above mentioned period. Needless to clarify that the conveyance would include garage and parking spaces, office block and toilets, which would be thereafter used as the office of the co-operative housing society / condominium. The parking spaces would also be conveyed and the area conveyed as such would be utilised by the condominium owners for parking of

vehicles.

10. The learned counsel appearing for the petitioners states that the possession of the flats, areas, passages etc. as above being already handed over, the petitioners shall not claim any interest or title of whatsoever nature in the said property including the areas which are hereinbefore designated and used as an office. Mr.Dilip Bodke, learned Advocate appearing on behalf of first respondent states that condominium thereafter shall use the areas including the office and garage as a society / condominium office. The petitioners state that they have full authority from the owners of the land and, therefore, the conveyance duly executed would be on behalf of the builders and developers so also the owners.

11. Upon execution of such conveyance, the petitioners as well as the owners would have no

right, title or interest in the property and the condominium / association of flat purchasers / apartment owners would become the owner of the same with all benefits and obligations attached to it. Needless to state that it would be open for them to administer and manage the affairs of the said condominium in accordance with law.

12. The undertakings as above are accepted. Needless to state that if the conveyance is not executed, it would be open for respondent No.1 and other apartment owners / flat purchasers to institute such proceedings, civil as well as criminal, for enforcing their right, title and interest in the said property.

13. The petitioners' counsel after taking instructions makes a further statement that the Apartment Deed in respect of (5) five flat purchasers has remained to be executed, which shall be executed and duly registered in

accordance with law within the aforesaid period. Needless to state that upon execution of the same and conveying the title, it would be open for the petitioners to apply before the concerned civil / criminal authority for dismissal or disposal of the proceedings in accordance with law.

14. Petition is disposed of in the above terms. Needless to state that proceedings in the Regular criminal case shall stand quashed. In view of the proceedings being quashed, it is not necessary to set aside the order issuing process, which also, needless to state, stands set aside.

(S.C. DHARMADHIKARI, J.)